

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 12/08/04 Item. 3.f.

File Number
CP 04-042

Application Type
Conditional Use Permit

Council District
4

Planning Area
North San Jose

Assessor's Parcel Number(s)
237-01-027

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Mike Mena

Location: West side of Oakland Road, approximately 100 feet southerly of Club Drive

Gross Acreage: 0.71

Net Acreage: 0.71

Net Density: N/A

Existing Zoning: IP Industrial Park

Existing Use: Industrial/Warehouse

Proposed Zoning: No change

Proposed Use: Church/Religious Assembly

GENERAL PLAN

Completed by: MM

Land Use/Transportation Diagram Designation
Industrial Park and Mixed Industrial Overlay

Project Conformance:
☒ Yes ☐ No
☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: MM

North: Industrial/Office Uses

IP Industrial Park

East: Industrial/Office Uses

IP Industrial Park

South: Industrial Uses

IP Industrial Park

West: Single Family Residence/Mobile Home Park

A(PD) Planned Development Zoning District

ENVIRONMENTAL STATUS

Completed by: MM

☐ Environmental Impact Report found complete on
☐ Negative Declaration circulated on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: MM

Annexation Title: Orchard No. 11

Date: July 1, 1955

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial

Date: _____
☐ _____

Approved by: _____
☐ Action
☒ Recommendation

OWNER

Sunstone International Inc.
20394 Manoa Court
Saratoga, CA 95070

APPLICANT/DEVELOPER

Landmark Missionary Baptist Church
Attn: Jack Counts
499 Coyote Road
San Jose CA 95111

Minden, Midiere Architects
Attn: Eric Midiere
PO Box 391701
Mountain View, CA 94039

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: MM

Department of Public Works

See Attached Memorandum

Other Departments and Agencies

City of San Jose Fire Department

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The property applicant, Landmarks Missionary Baptist Church, is requesting a Conditional Use Permit to allow a church/religious assembly use in an existing industrial building, located on the west side of Oakland Road, approximately 100 feet southerly of Club Drive in the IP Industrial Park Zoning District. The Zoning Ordinance requires a Conditional Use Permit (CUP) for church/religious assembly in the IP Industrial Park Zoning District.

Residential uses (mobile home park) are located on the westerly border of the project site. The site is adjacent to small-scale industrial/office uses to the north, east and south.

Project Description

The Landmarks Missionary Baptist Church (LMBC) is proposing to occupy an existing industrial building to be used for religious assembly use (1,800 square feet), group instruction/classroom use (2,714 square feet) and warehouse/storage uses (6,292 square feet). Although the project is intended to conduct all three uses on the site, the applicant has provided an operational description of the uses on the site, stating that the assembly/worship use and the adult religious instruction use will not operate concurrently. However, incidental children's Sunday School would be allowed to operate concurrently with the assembly/worship use. The religious assembly area will have fixed seating for a maximum of 124 people.

The applicant has indicated that eventually, in the future, they intend to expand the proposed church/assembly use into the area now proposed for ancillary warehouse/storage.

Only minor modifications are proposed to the exterior of the building in addition to minor site improvements as a part of this Conditional Use Permit, which consist of new building entryways and a new walkway within the existing front landscaped setback.

GENERAL PLAN CONFORMANCE

The subject site has a General Plan Land Use/Transportation Diagram designation of Industrial Park with Mixed Industrial Overlay. The proposed use is consistent with the General Plan land use designation of Industrial Park with Mixed Industrial Overlay in that churches/religious assembly uses are a conditionally

permitted use in the IP Industrial Park District consistent with this Land Use Designation. The site is developed with an existing 10,840 square foot industrial/warehouse building and a surface parking lot, similar to other development in the immediate area with exception of the mobile home park located westerly of the site. The proposed church/religious assembly use would operate within a fully enclosed building on its own lot and would not interfere with the surrounding industrial developments.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that pursuant to Section 15301 of the CEQA Guidelines, that the proposed project is exempt from environmental review. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that of existing at the time of the lead agency's determination. The proposed project is consistent with this category in that the project only consists of the occupancy of an existing industrial building with minor building and site improvements for a church/religious assembly use.

ANALYSIS

The primary issues for review of the proposed project are compatibility with surrounding land uses, and parking availability.

Land Use Compatibility

The project site is located in a part of North San José that is characterized by a mix of both industrial/office uses; consequently, uses which operate pursuant to a Conditional Use Permit in areas designated for industrial uses are not precluded from operating in these areas. Allowing a church/religious assembly use to operate in a building that contains industrial/office and similar uses would not result in significant land use compatibility issues. Only minor façade improvements and landscape changes are proposed as part of this Permit. Staff has concluded that if the proposed church/religious assembly use were ever discontinued, the property could readily accommodate a new industrial/office use, consistent with the Zoning Code, because there are no significant changes being proposed to the exterior of the building.

Parking

The primary issue related to this application is the adequacy of the amount of parking provided on the site. The site currently has a total of 31 parking spaces. The Zoning Ordinance requires parking be provided at a ratio of one (1) space for every four fixed seats in the worship area. The area designated for warehouse/storage is considered ancillary to the primary church use and therefore, does not require parking, and may not be operated as a separate use.

The proposed 124 fixed seats, as indicated on the floor plan, will require a minimum of 31 on-site parking spaces. As stated previously, the site currently provides 31 parking spaces; therefore, the proposed use meets the minimum required per the Zoning Ordinance.

Additionally, adult religious instruction will operate during week days and weekends; however, will be precluded from operating concurrently with the assembly/worship use. Parking on site will limit the number of students and staff consistent with the program description submitted by the applicant (75 students, 6

staff).

As stated above, the applicant has indicated that they ultimately intend to expand the activities of the proposed religious assembly use into the area that is now being proposed for warehouse/storage use. The applicant has been made aware that such expansion will require the filing of a new conditional use permit application and that the applicant would likely need to obtain an off-site parking agreement with a neighboring property owner in order to meet the parking required for an expansion of the assembly use.

For these reasons, and noting that the building will remain industrial/office in character and could be used again for industrial uses in the future, staff has concluded that allowing a church/religious assembly use to occupy this site would be compatible with the existing development in the area and in keeping with the character of the surrounding uses.

PUBLIC OUTREACH

Notice of the Planning Commission hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Industrial Park with Mixed Industrial Overlay on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The 0.71 acre project site is located in the IP Industrial Park Zoning District.
3. Church/religious assembly uses are a Conditional Use in the IP Industrial Park Zoning District, and are considered on a case-by-case basis on properties with a IP Industrial Park General Plan land use designation and a Mixed Industrial Overlay.
4. Only minor changes are proposed to the exterior of the building as part of this permit.
5. The project site has a total of 31 on-site parking spaces existing on the subject site, adequate for the 124 proposed fixed seats in the assembly area.
6. This Permit would allow church/religious assembly uses in an existing 10,840 square foot industrial building. Hours of operation for the facility are proposed to be from 8:00 a.m. to 10:00 p.m.
7. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Director of Planning has determined that the proposed project is exempt from environmental review.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. Although the proposed church/religious assembly is not an industrial use consistent with the site's General Plan designation of Industrial Park, church/religious assembly are allowed with a CUP in the IP Industrial Park Zoning District, and may be considered on a case-by-case basis on lands with a Mixed Industrial Overlay.
2. Parking will provided at the minimum number of off-street parking spaces required for a church/religious assembly use.
3. The proposed project complies with all applicable provisions of the Zoning Ordinance.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Proposed Alterations to Proposed Church; 2149 Old Oakland Road, San Jose CA for Landmark Missionary Baptist Church" dated November 5, 2004, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Lighting.** This permit allows no new on-site lighting.
5. **Parking.** Thirty-one (31) parking stalls shall be provided to meet the City's minimum requirements for off-street parking spaces for religious assembly uses of 124 fixed seats.
6. **Warehouse.** Warehouse/storage uses on site are strictly limited to an ancillary use to the primary church use and may not be operated as a separate use.
7. **Outside Storage.** No outside storage is permitted for the project. Storage shall occur only in areas within the building as designated on the approved plan set.
8. **Concurrent Uses.** Adult religious may not occur in the classrooms concurrently with use of the assembly area. Incidental use of the classrooms for children's sunday school is allowed.
9. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.

10. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
11. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
12. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
13. **Reimbursement:** The City of San Jose plans to construct street improvements along the frontage as part of the City's capital improvement program. If the City project proceeds prior to the development of this site, then the owner will be required to reimburse the City for the cost of right-of-way, engineering, construction, and inspection. Reimbursement will be required prior to the issuance of a Public Works Clearance.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.